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LETTER DATED 26 APRIL 1999 FROM THE CHARGÉ D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to forward herewith an assessment of the North Atlantic Treaty Organization (NATO) aggression against the Federal Republic of Yugoslavia based on the standards of the internal legal system of the Federal Republic of Yugoslavia and international law made by the Federal Constitutional Court of the Federal Republic of Yugoslavia (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

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Annex

Assessment of the North Atlantic Treaty Organization (NATO) aggression against the Federal Republic of Yugoslavia based on the standards of the Federal Republic of Yugoslavia's internal legal system and international law

The Federal Constitutional Court composed of President Milomir Jakovljevic and Justices Milan Vesovic, Arandjel Markicevic, Master of Jurisprudence, Dr. Milutin Srdic and Dr. Branislav Tomkovic, acting in accordance with its constitutional function to protect constitutionality and legality, human rights and freedoms established by the Constitution of the Federal Republic of Yugoslavia, international treaties and generally accepted rules of international law, and in accordance with the provisions of Article 16, paragraph 2, of the Constitution of the Federal Republic of Yugoslavia, at its session on 18 April 1999,

established

the following regarding the armed aggression of the North Atlantic Treaty Organization (NATO) against the Federal Republic of Yugoslavia:

1. On 24 March 1999, NATO launched an armed assault against the Federal Republic of Yugoslavia, in contravention of the Charter of the United Nations. NATO has undertaken massive and continuing air strikes against the population, towns and villages, economic and other civilian facilities, which constitute an act of aggression against a sovereign State Member of the United Nations.

2. By these continuing acts, the aggressor has violated the Charter of the United Nations, one of the main objectives of which is to maintain international peace and security. The Charter of the United Nations specifies that only the United Nations is authorized to take efficient collective measures to prevent and eliminate threats to peace, acts of aggression and other violations of peace. Under the Charter, only the Security Council is competent to decide whether there is an imminent threat to peace, violation of peace or aggression, to make recommendations and to take decisions on measures to be taken, including the use of armed force pursuant to the principles established by the Charter, in order to maintain the established international peace and security.

In accordance with its own acts, NATO may resort to arms, or armed force, but only in case of armed attack against a NATO member State.

Rules and principles of international law do not, in any case whatsoever, give the authority to the NATO alliance or any other military or civilian authorities and organizations to apply political criteria and freely assess that they can use force to kill people and destroy goods. NATO is now destroying goods that are invaluable and essential for the life and work of the Yugoslav citizens.

According to the Charter of the United Nations, the United Nations Organization and its Member States are obliged to seek to implement the above-mentioned objectives in accordance with the principles of sovereign equality of all members, so as to ensure the exercise of the rights and obligations under the Charter of the United Nations.

The Charter of the United Nations forbids the use of force against a sovereign State that has not committed aggression against another State. This arises from the principles established by the provisions of Article 2, paragraph 1, of the Charter, which stipulate the obligations of the members of the United Nations:

- To resolve their international disputes by peaceful means, so that international peace and security, and justice, are never violated (para. 3);

- For the member States to refrain in their international relations from the use or threat of force or the use of force against the territorial integrity or political independence of any State (para. 4);

- Not to interfere, in any manner, in matters falling within internal competence of each State, and not to request from member States to seek to resolve such matters on the basis of the Charter of the United Nations (para. 7).

In committing the aggression, NATO circumvented the competent authorities of the United Nations as the only organization authorized to take prescribed measures in the case of imminent threat to peace, violation of peace and aggression (Article 39 of the Charter).

3. With their activities preceding the aggression and by this act of aggression itself, NATO members and certain European countries within the Partnership for Peace, have violated the 1975 Helsinki Final Act of the Conference on Security and Cooperation in Europe, which stipulates that member States shall:

- Refrain from any interference, direct or indirect, individual or collective, in internal and external affairs falling within the national competence of individual States, regardless of their mutual relations, and that they shall refrain from any form of armed intervention or threat with armed intervention against another member State, as well as from undertaking political economic or other coercion;

- Refrain from the provision of direct or indirect assistance to terrorist activities or sabotage or other activities aimed at forceful overthrow of the regime of another member State;

- Respect the principle of territorial integrity of member States;

- Respect the principle of peaceful settlement of disputes;

- Undertake to condemn and eradicate terrorism;

- Contribute to the facilitation of free and broader dissemination of all types of information and promotion of conditions of work of journalists.

4. By its armed intervention, NATO is killing and hurting innocent citizens of the Federal Republic of Yugoslavia, members of all ethnic communities, jeopardizing their health, destroying bridges and railroads, railway tracks, trains, airport and port facilities, electric power plants and transmission lines, telecommunications facilities, water supply and sewerage systems, schools and universities, children's institutions, hospitals and health institutions, social welfare institutions, cultural and religious facilities, plants and factories, oil refineries and gas pipelines, chemical plants, television buildings, stations and transmitters, towns and villages, and polluting rivers and soil, with unfathomable environmental consequences. As a result, the population is forced to leave, after which refugee convoys are bombed.

5. The act of aggression and its enormous tragic consequence violate the rules and principles of the Universal Declaration of Human Rights:

- The right to life, freedom and personal security, by massive killings, infliction of bodily injuries and erosion of health of a large number of the citizens of the Federal Republic of Yugoslavia (article 3);

- The right to posses property and not to be arbitrarily deprived of property, by massive destruction and infliction of damage on the property of legal and natural persons in the territory of the Federal Republic of Yugoslavia (article 17);

- The right to freedom of opinion and expression, as well as the right to request, receive and disseminate information and ideas via any media and regardless of boundaries (article 19);

- The right to exercise cultural rights essential for human dignity and free development of personality (article 22);

- The right to work, to freely choose one's profession, to be provided with fair and satisfactory work conditions and to be protected against unemployment (article 23);

- The right to schooling and education (article 26).

The act of aggression has also violated the standards of the International Covenant on Civil and Political Rights (articles 1, 5, 10 and 15), the International Covenant on Economic, Social and Cultural Rights (articles 3, 10, 12, 13, 14, 15, 16), the acts of the 1990 Charter of Paris for a New Europe regarding human rights, democracy and rights of States, friendly relations among States, security, the human dimension, environment and culture, the European Convention for the Protection of Human Rights and Fundamental Freedoms and other documents of international law.

The unprecedented aggression has made it impossible for the citizens of the Federal Republic of Yugoslavia to move in the territory of their own State, to use their own property by themselves or together with other people, to exercise economic and natural rights essential for their dignity and their personal development in accordance with the organization and resources of their State. At the same time, the right to the protection of children and family, the citizen's right to enjoy cultural goods, to participate in scientific progress and to enjoy goods arising therefrom, and an array of other interconnected rights and freedoms, have been violated.

6. By its mass destruction of towns and villages and killings of civilians, NATO has committed war crimes as serious violations of rules of war law, which are prohibited by the 1899-1907 Hague Conventions and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (articles 50, 51, 130 and 147), and the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

7. The principles, rules and norms of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Language Minorities, and the Framework Convention for the Protection of National Minorities had been ipso jure and ipso facto ensured and implemented in the Federal Republic of Yugoslavia in the period preceding the aggression. This is confirmed by the fact that the Federal Constitutional Court had not received any reasonable request for the protection of national minorities, which is a prerequisite of addressing the European Court for Human Rights. Proceeding from the fact that the Federal Republic of Yugoslavia is a multi-ethnic community, the Constitution of the Federal Republic of Yugoslavia and constitutions of the member republics contained all normative solutions envisaged by the said international legal acts. In this respect, the Federal Constitutional Court states that the Federal Republic of Yugoslavia has provided all the necessary prerequisites of, and created all conditions for, the exercise of the established national minority rights. Members of national minorities enjoy the right to their own national or ethnic, cultural, religious and language identify in the territory where they live, the right to use their own language and scripts, to practice their own culture and religion, to perform religious ceremonies, to establish their own associations. They are guaranteed equality before the law and equal legal protection; traditional local names of streets and other signs are written in local languages; the freedom of expression includes the freedom of conviction and reception and dissemination of information and ideas in minority languages. They are guaranteed the right to establish and use their own mass media, cultural, educational, language and religious institutions, and to establish and foster unhindered relations and maintain peaceful contacts with co-nationals outside the Yugoslav borders, as well as the right to participate at the national, regional and local levels.

All of the above-mentioned rights are exercised in the authorities of the Federal Republic of Yugoslavia, in the member republics, in the autonomous provinces of Vojvodina and Kosovo and Metohija, that is, in their local self-government authorities.

Nevertheless, under the binding international law, each member of a national minority is obliged to respect the national legislation and the rights

of others, especially of members of the majority and other national minorities (article 20 of the Framework Convention for the Protection of National Minorities, Strasbourg, 1995).

The aggressor's acts cannot contribute to the exercise of the established rights of national minorities. On the contrary, they impede the exercise not only of the rights of national minorities but also of fundamental universal civil liberties and rights and render such exercise impossible.

8. Based on the above-stated, the Federal Constitutional Court has established that the unjust, illegitimate and illegal NATO aggression against the Federal Republic of Yugoslavia has violated international public law and the international legal order. The imposition of unlawfulness instead of law has also jeopardized peace in the international community at large.